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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,828	12/09/2003	Ian D. Faulkner	PZ9918 CON	4379

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Amerhsam Health, Inc.
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Princeton, NJ 08540

EXAMINER

GILBERT, SAMUEL G

ART UNIT PAPER NUMBER

3736

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/731,828

Applicant(s)

FAULKNER ET AL.

Examiner

Samuel G. Gilbert

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7-10,12-15,18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-10,12-15,18 and 19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/9/2003</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 12/9/2003 has been considered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3, 5, 9, 10, 12-14, 18, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Langton et al(5,460,592).

Langton teaches a method of making and sterilizing a seed train. The applicant's attention is invited to column 2 lines 60-64, showing the method of heating and subsequently cooling to make the seed train semi-rigid. Column 3 lines 10-13 that teaches the device can be stiffened and sterilized at the same time. Column 6 lines 1-3 show a temperature range of 150-185 C for 1 hour to stiffen the material. Claim 1 does not include the required length of time therefore it is the examiner's position that 1 hour meets the claim limitation. The examiner is taking element -13- as a closed container. Sleeve -28- is gas impermeable. 1-125 is set forth in column 5, lines 14-21. It is inherent that the seeds are free of moisture. Regarding claim 12 – the heat is dry heat. The applicant's attention is invited to column 6, line 1.

Claim 14 – the applicant's attention is invited to the embodiment of figure 23.

Claim 18 - it is the examiner's position that the elements are isotropic.

Claim Rejections - 35 USC § 103

Claims 7, 8 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Langton et al.

Claims 7 and 15 - the devices after sterilization are shipped the end user. The end user would need to know what specific radiation train is contained in the sterile package to decide which seed train to use. Labels are well known in the medical arts to provide end users with the information they need. The examiner is taking official notice that end user package labels are well known in the medical arts and would have been obvious to use with the container of Langton et al. to provide the end user with the required information.

Claim 8 - when using an autoclave it is known to sterilize more than one instrument at the same time. It would have been obvious to one of ordinary skill in the art at the time the invention was made to sterilize more than one device at a time as a duplication of elements which is within the skill of one of ordinary skill in the art.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kan 6,106,455 in view of Langton et al (5,460,592). Kan teaches sterilizing loose seeds with steam. Langton et al teaches using steam or dry heat in the range claimed by the applicant. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use dry heat sterilization with the device of Kan as a substitution of functionally equivalent elements as taught by Langton et al.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent 5,839,225 and USPGPUB 2002/0076429 teach related sterilization methods.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel G. Gilbert whose telephone number is 571-272-4725. The examiner can normally be reached on Monday-Friday 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eleni Mantis-Mercader can be reached on 571-272-4740. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Samuel G. Gilbert
Primary Examiner
Art Unit 3736